



**TESTIMONY OF YALE NEW HAVEN HEALTH SYSTEM
SUBMITTED TO THE
JUDICIARY COMMITTEE
FRIDAY, MARCH 6, 2015**

**SB 1028, AN ACT CONCERNING THE TOLLING OF THE STATUTE OF
LIMITATIONS FOR A NEGLIGENCE ACTION BROUGHT BY A MINOR**

Yale New Haven Health System appreciates the opportunity to submit testimony in opposition to SB 1028, An Act Concerning the Tolling of the Statute of Limitations for a Negligence Action Brought by a Minor.

Yale New Haven Health System (YNHHS), comprising Bridgeport Greenwich and Yale-New Haven Hospitals, is Connecticut's leading healthcare system. With over 20,000 employees and over 6,000 medical staff, we are among the largest employers. YNHHS provides comprehensive, cost-effective, advanced patient care characterized by safety, quality and service. We offer our patients a range of healthcare services, from primary care to the most complex care available anywhere in the world. YNHHS hospital affiliates continue to be a safety-net for our communities, and we provide care 24 hours per day, seven days per week. In addition to being economic engines for our communities, YNHHS hospitals care for more than one quarter of the State's Medicaid patients and provide millions in free and uncompensated care to those who need our services and have no ability to pay for them.

YNHHS agrees that all injured patients should be reimbursed for losses suffered due to medical negligence, and minors - by their very nature, arguably the most vulnerable of patients - are certainly no exception. However, the proposed legislation disrupts well established law in Connecticut that allows for claims to be brought on behalf of minors, and will increase health care costs and ultimately harm the public when limited healthcare resources necessary to improve patient care, safety and clinical quality are spent attempting to defend claims brought well outside the current statutory scheme.

Connecticut's current uniform statute of limitations serves three purposes. First, it prevents the unexpected enforcement of stale claims after the lapse of a reasonable period of time. Imposing a deadline detailing when a negligence claim must be filed allows individuals a reasonable degree of certainty that they will be free from the burden of unknown potential liability; second, it assists in the goal of having a claim correctly decided because it reasonably ensures that necessary witnesses will be available to testify. A longer statute of limitations would result in witnesses moving or dying prior to a claim being brought, and in memories fading over time. Recognition of the foregoing factors will leave defendants open to fabricated claims; and third, it promotes the legitimate societal interest in having finality in civil litigation.

Tolling statutes similar to this proposal for minors have, in the past, been reserved for those situations that involve egregious, intentional acts for which a minor has no ability to pursue redress. Specifically, this type of tolling statute has been used in sexual assault cases, wherein the act/incident is not discovered (because the child is unable to express or comprehend what happened) or the perpetrator is a parent or guardian and the child, has no one to pursue the matter. Malpractice cases are entirely different. Malpractice claims involve allegations of negligent not intentional acts. Allowing such a change would equate negligent acts with those more egregious intentional types of incidents (i.e. sexual assault) wherein there is a perpetrator as opposed to simply a defendant.

The proposal to extend the statute of limitations for minors carries the risk that insurance coverage will be made more difficult, and some carriers may refuse to honor stale claims. The longer limitations period will increase claims of large value cases and will put additional financial stress on hospitals such that many may go out of business, further reducing access to medical care for patients. In addition, the increase in large claim cases may limit the number of insurers who chose to write policies for Connecticut based practices.

On behalf of YNHHS, we respectfully recommend that the Judiciary Committee reject SB 1028. The purpose of a statute of limitations is to provide finality for defendants, insure that claims are brought in a timely way so that documents are not inaccessible and the memory of witnesses has not faded. All of these goals are frustrated by this bill. Furthermore, there is no reason offered to change well-settled law in this state by extending the statute of limitations for minors. Parents and guardians have traditionally been authorized to file claims on behalf of minors, and they have done so routinely.

Thank you for your consideration of YNHHS' position regarding this important matter.